

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE

ROLANDO A ALBARRACIN
ZULMA GOMEZ RIVERA

CASE NUMBER: 11-02119-ESL
CHAPTER 13

Debtor(s)

TRUSTEE'S POSITION REGARDING DEBTORS' "MOTION TO INFORM
AND REQUEST EXEMPTION TO PAY GENERAL UNSECURED POOL" D.33

TO THE HONORABLE COURT:

COMES NOW, Alejandro Oliveras Rivera, Standing Chapter 13 Trustee, and very respectfully, **ALLEGES, STATES** and **PRAYS**:

1. The present case was filed on March 14, 2011. The meeting of creditors was held on May 26, 2011.

2. At the meeting of creditors, the trustee pointed out, among others, debtors must review and amend the Statement of Current Monthly Income ("SCMI") if necessary since debtors' combined monthly income for the last six months prior to the filing of the petition was \$10,778.00 and not \$6,529.00 according to the paystubs submitted by debtors.

3. On June 15, 2011, debtors filed an amended SCMI to disclose a combined monthly income of \$10,778.00 and a **monthly disposable income at line 59 of \$2,463.85**, see docket no. 29. As per the amended plan dated June 4, 2011, debtors propose a monthly payment to the trustee of \$725.00.

4. On June 17, 2011, debtors filed a "Motion to inform and request exemption to pay general unsecured pool" (hereinafter "Motion to Inform"), see docket no. 33. Mainly, debtors request that this

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Honorable Court "exempt" debtors from complying with the monthly disposable income of the amended SCMI due to a change in circumstances.

5. At this moment, further information must be provided to the trustee, this Honorable Court and all parties in interest regarding debtors' alleged change in circumstances. Although debtors state that they "*went through a reduction in salary*", debtors have failed to sustain with evidence this allegation. Paystubs from the six-month period prior to the filing were provided to the trustee but no evidence of current income has been submitted. Debtors must state reason for the alleged reduction of income; must provide specific dates or time period for reduction; must submit evidence of current income and/or any other documentation to sustain their allegations.

6. The Supreme Court in the case of Hamilton v. Lanning, 130 S. Ct. 2464 (2010), held that debtor's projected disposable income will be limited to his disposable income if there are no changes in debtor's income or expense that are known or virtually certain at the time of confirmation. Thus, "a court taking the forward-looking approach should begin by calculating disposable income, and in most cases, nothing more is required", see also this Court's Opinion and Order dated March 9, 2011 in the case of Edgar O'Neill, 10-00641.

WHEREFORE, it is respectfully requested from this Honorable Court to take notice of the above-stated, order debtors to supplement their "Motion to Inform" and grant any remedy it may deem just.

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NOTICE

YOU ARE HEREBY NOTIFIED THAT YOU HAVE FOURTEEN (14) DAYS FROM THE DATE OF THIS NOTICE TO FILE AN OPPOSITION TO THE FOREGOING MOTION AND TO REQUEST A HEARING. IF NO OPPOSITION IS FILED WITHIN THE PRESCRIBED PERIOD OF TIME, THE TRUSTEE'S MOTION WILL BE DEEMED UNOPPOSED AND MAY BE GRANTED WITHOUT FURTHER HEARING UNLESS (1) THE REQUESTED RELIEF IS FORBIDDEN BY LAW; (2) THE REQUESTED RELIEF IS AGAINST PUBLIC POLICY; OR (3) IN THE OPINION OF THE COURT, THE INTEREST OF JUSTICE REQUIRES OTHERWISE. IF A TIMELY OPPOSITION IS FILED, THE COURT WILL SCHEDULE A HEARING AS A CONTESTED MATTER.

CERTIFICATE OF SERVICE: I hereby certify that on this same date I electronically filed the above document with the Clerk of the Court using the CM/ECF System which sent a notification to its recipients and to jpc@jpcclawpr.com. I further certify that I have mailed this document by First Class Mail postage prepaid to debtor-address of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 24th day of June, 2011.

ALEJANDRO OLIVERAS RIVERA
CHAPTER 13 TRUSTEE
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By: **/s/ROSAMAR GARCIA FONTAN**
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